

that it might be two or three months before Mr. Harmon could take up his work.

Doctors to Testify.

Tomorrow Dr. Barnard and Dr. Davis, of the University of Virginia will appear on the stand. They have been summoned to appear. They made an examination of Mr. Harmon and confirmed the diagnosis of Dr. Browning. When they appear in court they are expected to declare that the case is not expected to be able to proceed with the case for a long time—two, three or six months, or even more.

If this proves to be true, the question that promptly arises is a perplexing one. An indefinite postponement of the trial would be out of the question and a postponement for a week or even a month would be of no avail since the senior counsel could not reappear within that time. There are four other lawyers representing Mr. Harmon and Mr. Harmon, it is believed by many that if there is a short time, which would allow the defense to secure another attorney, whether or not Mr. Lee would consent to such an arrangement and what would happen if he did not, are matters upon which not many are willing to speculate.

A Startling Result.

There is one final aspect of this very unusual feature of a very unusual case. It sounds far fetched, and a little crack-brained, but I get it from men skilled in the law. Could Mr. Harmon be tried again if the present jury were discharged? The jury has been sworn and the case has been entered upon the second time. It is a matter of life and death. Would there not be a ticklish question for a superior court to settle? There may be nothing to this. I confess that it is beyond my ken. I merely give the question as it was propounded to me to-night by an attorney, an attorney figuring in the McCue murder trial.

At a late hour to-night, however, it is reported that the attorneys for the Commonwealth have reached the conclusion that the plea of "former jeopardy" could not be raised in connection with the McCue case, and that the present proceeding would be regarded simply as a non-trial or a mistrial. In the event that a long postponement makes it necessary to discharge the present jury, the same men could be summoned again when the case is called on for a second time. It would be as if jurors in an examination showed them to be still competent to serve. It is gathered from the reports circulating that the Commonwealth will appear in court to-morrow prepared to contest any attempt to secure a postponement.

So far as can be ascertained there are no strikingly new developments outside of what happened to-day in court. I was told to-day that a new detective had appeared upon the scene and had held an interview with Mr. Harmon. I was told that an important new witness had been located, a woman who knows something about the internal conditions of the McCue household for some time before the murder.

Sensations Expected.

The prosecution is constantly at work, and from what can be understood, expects to develop two or three sensational new lines. That is to say, the evidence will concern matters already touched upon, but will come from unexpected quarters. It is well within the range of things possible that Mr. Harmon will never go on the stand. The Commonwealth could not force him to testify, and it could not use his evidence at the inquest. Evidence at a legal examination can be used in a trial only where it was made in a legal examination for the benefit of the inquest. Mr. Harmon is not testifying in his own behalf. At that time he had not been charged with the murder. The inquest was purely an examination into the circumstances of a murder as yet unexplained.

To all appearances Mr. Harmon was somewhat more nervous yesterday. This was particularly true while the indictment was being read. The prisoner continues to protest his innocence. When he went back to jail yesterday evening he earnestly repeated his assertion that he did not kill his wife. One of the children went to the prison to-day, but was not admitted.

The Day in Court.

It was considerably after 2 P. M. before the court entered upon the work of the fourth day. Yesterday delays have hampered the trial at every step and it was with no great surprise that the patiently waiting crowd learned that another high held the court in check. The day's progress has experienced difficulty in capturing the Warren verdict, and had been up to the early train to Charlottesville. There was nothing to do but wait and the opening—originally set for 12:30 o'clock—was postponed for about two hours.

Rogers and his party came into town on the 1:30 P. M. train, and at once proceeded to the courthouse, where a great crowd was packed away into the restricted accommodations. The bell rope was pulled by a deputy and everything seemed in readiness for the beginning. The absence of the accused, however, retarded another day. The attorneys were all on the ground. A little stir went around when Mr. Harmon, looking weak and sick, walked in, stood for a moment, and then left. The attorneys for the defense stood at the side entrance and waiting the arrival of the prisoner whom they followed into the room. Mr. Harmon entered at 2:30 P. M. There was nothing unusual about his appearance. He wore the same clothes and looked as healthy and robust as of yore. Little Ruby McCue was not there, but several of the other members of the family sat grouped around the accused. The McCue brothers embraced and kissed each other three times. The prisoner then leaned back in his chair, threw one arm over the side of it and awaited developments.

Venire Examined.

The work of examining the venire be-

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gan at once. Rogers called the names: W. G. Fowell: No opinion; could give fair and impartial trial; accepted. D. T. Ollinger: Opinion formed and expressed; could not dismiss it from mind; disqualified. L. E. Holmes: No opinion; don't know much about case; could give fair trial; accepted.

This completed the panel and a sigh of relief went up from every quarter of the courtroom. The case with which it was some cause to comment. It was in the light after the storm that the court gilded through the hitherto troubled waters and with surprising facility reached the point at which it had been headed for the past week. At a sign from Mr. Lee, Mr. Harmon and his attorneys rose and with whom he conferred for about two moments. Counsel for the defense then asked for the privilege of retiring a few moments. Judge Morris said he would give them any reasonable amount of time. Mr. Lee thought for a few minutes and then declared, "We want Mr. Harmon first." This looked like business and even the swarm of negroes in the gallery stirred with expectation.

Speed the Parting Guest. Meanwhile, arrangements were being made to permit the departure of the remaining twenty-seven of the "Warrenton Rogers. A full list of those summoned by Rogers from the Fauquier town is as follows: W. G. Fowell, D. T. Ollinger, L. E. Holmes, C. D. Henson, S. P. White, K. E. Murfee, C. B. Calahan, Edward Sims, Dr. R. O. St. Clair, W. H. Blythe, John T. Browner, B. E. Jeffries, W. T. Willis, A. E. Walker, William Martin, George Mayhew, Albert Whitten, H. T. Burgess, Walter Goldthorp, John Coons, Robert Fisher, W. H. Campbell, R. B. Maddux, J. P. Stone, A. K. Kennedy, W. H. Clatterback, W. H. Riddon, F. D. Gaskins, F. R. Hodgins.

The Trial Jury. Within a few moments after 3 o'clock the attorneys were back in the room. The defense at once exercised their peremptory right and struck four names from the panel. Those who were directed to the panel were: J. M. McWhorter, of Petersburg; A. E. Heinrich, of Richmond; Dr. J. B. Wood, of Richmond; Samuel Beale, of Fredericksburg. The remaining twelve, who constitute the jury in the McCue case, are as follows: J. Y. Stockell, of Petersburg; W. D. Spiers, of Petersburg; A. J. Saunders, of Petersburg; James E. Frenitis, of Petersburg; T. F. Parsons, of Petersburg; A. S. Johnson, of Petersburg; Shelton Chives, of Petersburg; John A. Taylor, of Richmond; S. B. Quinn, of Fredericksburg; Nelson Decker, of Fredericksburg; W. G. Fowell, of Warrenton; L. E. Holmes, of Warrenton.

The jurymen stood while the oath was read and then each kissed the Bible as it was passed from hand to hand. The solemnity of the next few moments was impressive. In a halting voice the deputy clerk read the long and terrible indictment of McCue. The jury stood, the prisoner sat staring and ill at ease. The ordeal would have caused a shudder to a man less well-contained than he. Mr. Harmon drew deep, long breaths, and his eyes closed as he listened. At last it was done and the gentlemen now full armed to sit in judgment upon the prisoner before they took their places again. A moment later, the trial was on or at least there were indications of a beginning.

The First Witness. Dr. Frank McCue was called and at once took the stand. The shadow of Mr. Harmon caused a pause. Rogers, the peripatetic sergeant, grabbed his hat, his hat and his stick and strode out.

Mr. Harmon did not know it himself until three-quarters of an hour ago," said Dr. Browning. "I have worked on the moment to pull him through and we have not succeeded. Mr. Lee has just been informed that Mr. Harmon will endanger his life if he attempts to go on with the case."

Mr. Kerr arose to reiterate the desire of the Commonwealth for a conference and Judge Browning, who had the matter far under consideration before a final decision is reached. He ordered a recess until to-morrow morning at 10 o'clock.

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McCue mated fixedly at his brother and then allowed his eyes to roam about the place.

Mr. Lee left to inquire into the absence of the senior counsel.

It was a dramatic moment when Mr. Gilmer arose and asked that the clerk bring into the courtroom the base-ball bat, the murderous gun, the night-gown worn by the victim and the bloody shirt of McCue.

Mr. Duke left at once and returned shortly with the bat wrapped in a newspaper and tied with a red string. He went out again almost immediately and after awhile brought in the other articles.

The court waited impatiently. Mr. Harmon had not returned, and whispers speeding from lip to lip, declared that he had suffered a collapse. At last there was a stir in the doorway and Mr. Lee appeared, followed by one or two of his associates. The senior counsel was not of the party. The Lynchburg lawyer walked to his seat, glanced at a paper he carried, and then arose and faced the court.

Lacking in Red Blood. "It is with great regret," he said slowly and carefully, "that we inform the court of the serious illness of Mr. Harmon, of which we have just been accurately informed. I cannot attempt to speak with technical precision, but I understand from the physicians who have made a careful examination of Mr. Harmon's blood, that he is in a very anemic condition. The normal number of blood corpuscles in a human body is about 5,000,000. Mr. Harmon has only a little over 2,000,000. When the number sinks below the 2,000,000 mark, the result to the patient is death. Should Mr. Harmon insist upon going on with the case, the effort would kill him. He cannot and will not appear."

Mr. Lee went on to say that, having relied largely upon Mr. Harmon, who was the first lawyer engaged to defend McCue, his associates did not feel that they were prepared to go on with the case without him. It would be unjust to the court, to themselves and above all things, to the physicians upon the stand and let them testify. From conversations with the attorneys on the other side, he understood that the Commonwealth lawyers desired a consultation and a recess until to-morrow morning. Mr. Lee realized the embarrassment a delay at this time would cause to everybody. He said that nobody could tell more than the defense, which was ready with its case and anxious to proceed.

Trial Should Go on. Captain Woods, of the prosecution, extended his heartfelt sympathy to Mr. Harmon, but regretted that the information of his illness had not been stated before. Mr. Lee, he understood, did not learn of it until a few minutes previous to the trial. The trial, he said, had gone to great expense and it possible the court should proceed. He hoped that after a conference, the defense might be able to appear in court to-morrow morning and express its willingness to go on. Arising to reply to Mr. Woods, Mr. Sinclair, of the defense, said that the situation with such a delay in view, would be useless. He said flatly that it would be impossible to go on with the trial to-morrow.

The expert testimony of Dr. Browning closed the day. He confirmed what Mr. Lee had said. Mr. Harmon was in a very anemic condition. He had been under the constant eye of his physicians. Every effort had been made to build him up sufficiently to permit him to go on. Not satisfied with his own examination, Dr. Browning had called in Dr. Barringer, of the faculty of the University of Virginia, and Dr. Burgess. Both had confirmed his worst fears. Mr. Harmon's blood was far below the normal. The exact number of red corpuscles discovered in the examination was 2,300,000. The normal number of white corpuscles in a human body is from 8,000 to 10,000. If the number of white corpuscles in the blood is below 2,300,000, the condition grows much worse. He would be suffering from pernicious anemia, a very grave disease. There was no organic trouble. What the attorney needed was rest and quiet, so that his system might be built up.

Mr. Harmon Cannot Go on. It would be impossible for him to appear within less than a month, and no definite assurance could be given that he could return to the case at the expiration of that time. It might take much longer for him to be a well man again.

"Mr. Harmon," said the physician, "in effect, 'is more grieved than anyone else at this delay. He is begging and pleading to be allowed to go on. At the very start, he said to me, you must not stop him. I have now told him that he cannot go on with my consent. He needs fresh air, the vitiated atmosphere of this courtroom is hardly fit for a snake to breathe.'"

"Will you please inform the court when we were told of Mr. Harmon's real condition," asked Mr. Lee. The court assured Mr. Lee that it was satisfied with his personal statement, but the attorney said he wished not only the court but the entire audience to have this assurance.

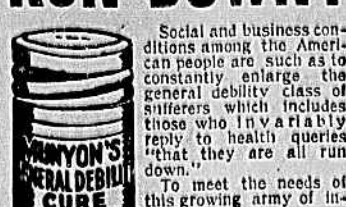
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AN AWFUL BLUNDER. (By Associated Press.)

ST. PETERSBURG, October 24—(Midnight).—No official or unofficial Russian legislation of the unfortunate affair of Dogger Bank is forthcoming up to this time, and has would mean a serious blow to the Russian navy. At the same time the foreign office issued a statement expressing the regrets of the government for the deplorable incident, but explaining that no formal action is possible until Admiral Rojestvensky's official report of the affair has been received.

While no formal action has been taken, the deepest regret is expressed in all quarters, and the purpose of the government to make amends if Rojestvensky's report is found to be correct. The government has been proclaimed in every government department. Emperor Nicholas himself was greatly aggrieved when he heard the news while he was inspecting the cruiser Oleg at Cronstadt this afternoon, and Foreign Minister Lambsdorff expressed to Ambassador Lamsdorf his deepest personal regrets. The Russian embassy at London has also been directed to convey similar expressions to the government of Great Britain. It is felt that this is all that can possibly be done, pending the receipt of Admiral Rojestvensky's statement.

That a horrible blunder has been committed is recognized and deplored everywhere and nowhere has an attempt been made to justify the firing upon innocent fishermen. It is felt that Rojestvensky's error was a man and officer to be summarily condemned. It is agreed that he be entitled to a hearing, but even the admiralty regrettably admits that it is at a loss to understand what explanation could justify such an apparently cold-blooded act as the firing upon innocent fishermen. It developed during the day that the admiralty had strong reason to believe that an attempt would be made against the squadron during its passage through the Great Belt or the English Channel.

So specific was the information that even the present crisis has not diverted attention from the possibility of such an attack yet occurring. The failure of steam trawlers with their nets out to obey the signals from the Russian warships or the nervousness of some officer, who imagined that fishermen working with their nets in the fishing grounds may be responsible for the blunder. As soon as the facts are established it is certain that the Russian government will voluntarily offer the fullest reparation.

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